

58

# **Notice of Allowability**

Application No.

10/762,211

Examiner

Michael Apanius

Applicant(s)

PETERKA, ROBERT J.

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 3/7/2007.
2. ☒ The allowed claim(s) is/are 1-5 and 103-182.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20070523.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Cochran on 5/23/2007.

The application has been amended as follows:

- At claim 1 (renumbered claim 1), lines 6-7, "evaluating vestibular response in the other ear of the subject relative to another component of the multiple component stimulus;" has been amended to read:  
--evaluating vestibular response in the other ear of the subject relative to another component of the multiple component stimulus while vestibular response in the one ear is turned off;--.
- At claim 3 (renumbered claim 9), lines 6-7, "evaluating vestibular response in the other ear of the subject relative to a second component of the multiple component stimulus;" has been amended to read:  
--evaluating vestibular response in the other ear of the subject relative to a second component of the multiple component stimulus while vestibular response in the one ear is turned off;--.

Art Unit: 3736

- At claim 103 (renumbered claim 12), line 10, "vestibular responses" has been amended to read --vestibular response--.
- At claim 103 (renumbered claim 12), line 12, "responses in the one ear are turned" has been amended to read --response in the one ear is turned--.
- At claim 132 (renumbered claim 50), lines 7-8, "evaluating vestibular response in the other ear of the subject relative to another component of the multiple component stimulus;" has been amended to read:  
--evaluating vestibular response in the other ear of the subject relative to another component of the multiple component stimulus while vestibular response in the one ear is turned off;--.
- At claim 133 (renumbered claim 57), second to last line, "are turned" has been amended to read --is turned--.

The following is an examiner's statement of reasons for allowance: no prior art of record teaches or fairly suggests applying a multiple component stimulus to control motion of a subject to turn off vestibular response in one ear of the subject in response to a component of the multiple component stimulus and evaluating vestibular response in the other ear of the subject relative to another component of the multiple component

Art Unit: 3736

stimulus while vestibular response in the one ear is turned off as set forth in claims 1, 3 and 132.

The following is an examiner's statement of reasons for allowance: no prior art of record teaches or fairly suggests applying a stimulus to control motion of a device that rotates the subject about an axis, the stimulus having a bias component to control motion of the device to temporarily turn off vestibular response in the one ear of the subject and having a probe component to modulate the bias component while the vestibular response in the one ear is turned off to evaluate responsiveness in the another ear of the subject as set forth in claims 103 and 133.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

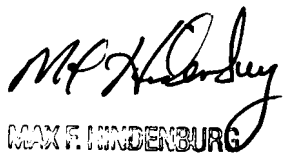
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Apanius whose telephone number is (571) 272-5537. The examiner can normally be reached on Mon-Fri 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3736

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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